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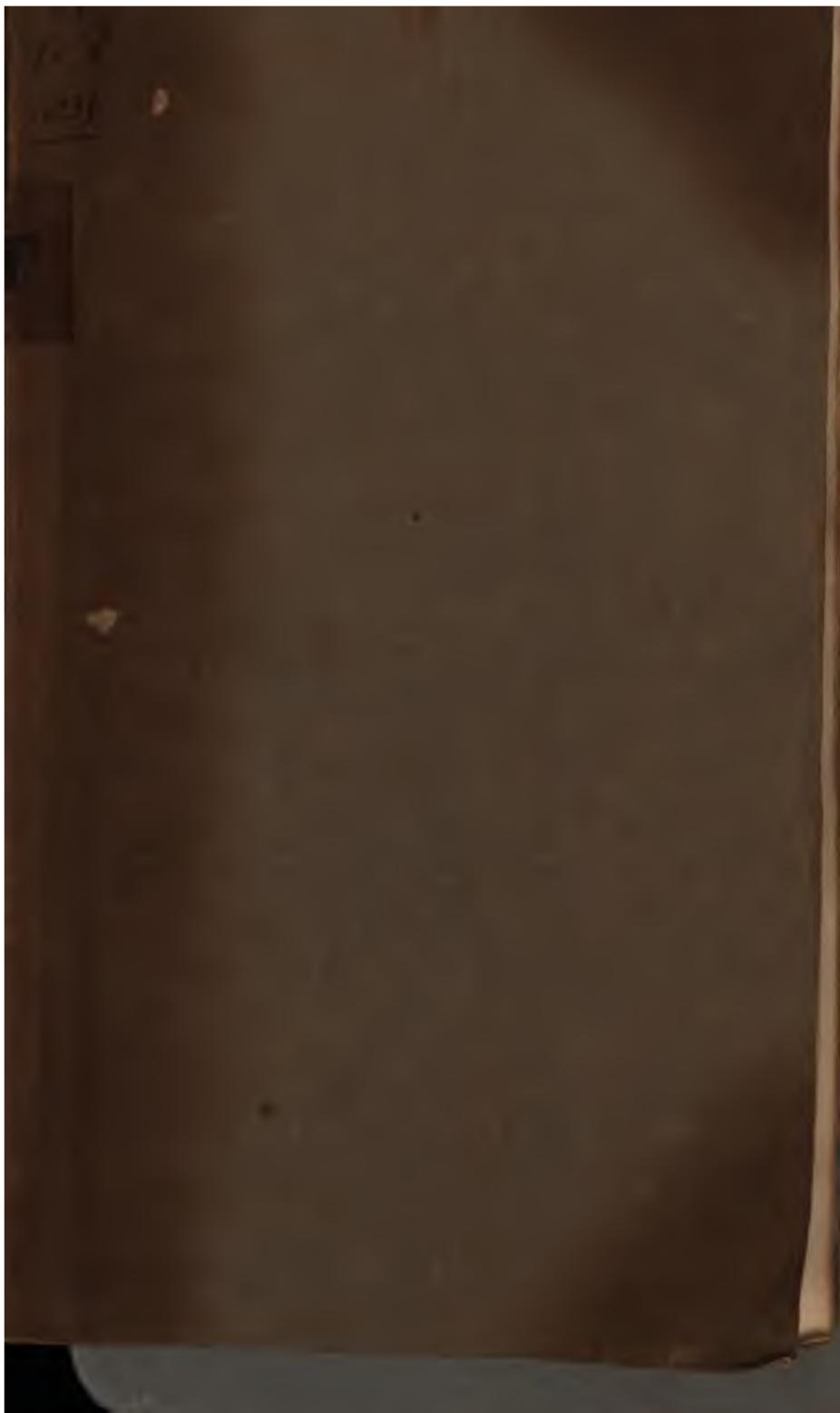
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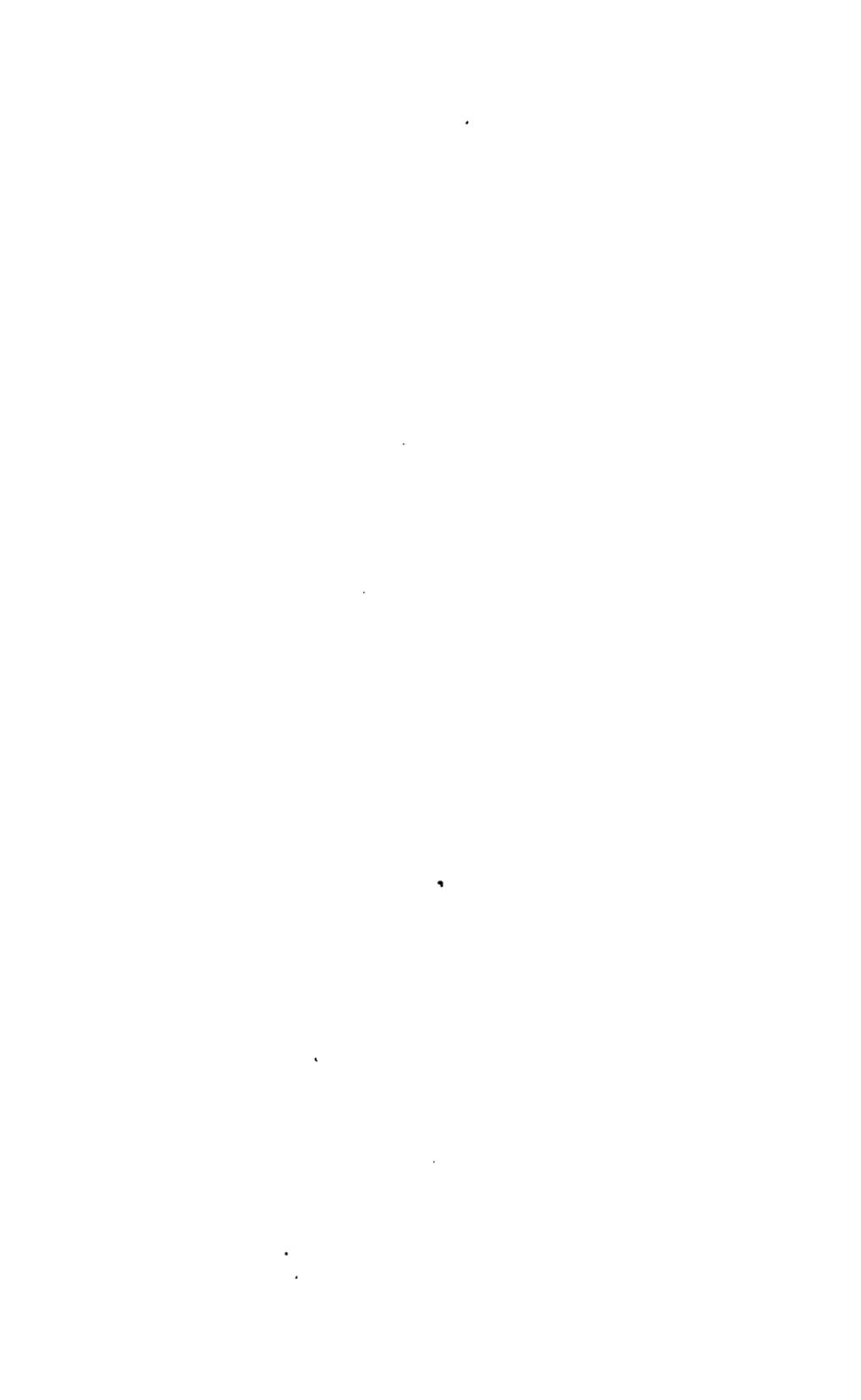


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11.





A N E P I T O M E
OF THE
PRACTICE AND ORIGIN
OF
THE SHERIFF'S COURT,
BY
Writ of Justices.

AN S.A. 1832.

EPITOME
OF THE
PRACTICE AND ORIGIN
OF THE
SHERIFF'S COURT,
BY
Writ of Justices,
APPLICABLE TO
EVERY COUNTY IN ENGLAND AND WALES;

SHEWING THE EASY METHOD AT WHICH
DEBTS (ABOVE 40s.) NOTES OF HAND, BILLS OF EXCHANGE,
TRESPASS, ASSAULT, DAMAGE, OR THE LIKE, MAY BE RECOVERED BY
THE SHERIFF IN FULL COUNTY COURT.

TO WHICH IS ADDED,
THE FORM OF THE BILL OF COSTS,
AS TAXED IN THE LATE CASE OF
BONUS v. CARTER,

Tried before the Sheriff at Hertford, in September last;

AS ALSO THE PRACTICE OF THE SAME COURT,
IN REPLEVIN, DAMAGE-FEASANT, WRIT OF FALSE JUDGMENT, &c.
ACCOMPANIED WITH USEFUL AND APPROPRIATE FORMS.

BY J. B.

OF INNER TEMPLE LANE.

LONDON :

PUBLISHED BY C. G. CABBN, LAW BOOKSELLER AND STATIONER,
33, CAREY STREET, LINCOLN'S INN, AND TO BE HAD OF EVERY BOOKSELLER
AND STATIONER IN TOWN AND COUNTRY.

1831.

II.



TO

RICHARD LONGMORE, Esq

COUNTY CLERK,

OF THE

COUNTY OF HERTFORD.

SIR,—The recent Trial of BONUS *v.* CARTER, brought down by *Writ of Justicies*, at the Sheriff's Court at Hertford, and tried before you in September last, has given rise to numerous speculations respecting the nature and origin of this Writ; and the novelty occasioned thereby may be easily accounted for, inasmuch as it is, I believe, the

first in the County of Hertford which has ever come to Issue—Trial and final Judgment.

At the desire therefore of many respectable individuals, the following pages have been published, and the request has been complied with, more with a view to elucidate the more certain and easy method of trying Issues of a local nature than of encouraging the more heavy Proceedings in the Courts above, where causes are not of sufficient import to carry them thither.

It has been said, and I believe with much truth, that had a certain learned

noble lord consulted the ancient origin of this Writ, there would be no necessity for the establishment of new local Courts, when in fact, there were existing Statutes which gave jurisdiction to the Sheriff by *Justicies*, to hold Pleas to any amount, as will be seen by a review of the subsequent pages.

To add, therefore, to the dignity of this Court, (or rather to its power), it has only to be made one of Record, (which it is not at present), and he will effect every end contemplated by the New Bill.

For the Dedication to you, Sir, I feel I need not apologize, inasmuch as

where the public good is contemplated, a public man requires none ; the office of County Clerk admits this liberty, and particularly where a practice so useful is unknown to numerous branches of the legal Profession.

The following narrative may perhaps be found too much curtailed ; but one object alone has the author in view, viz : to render the Practice concise and useful, and that at a small price, every person who may hereafter have occasion to use this Court, may be enabled to obtain it.

With these brief remarks, I submit

the following pages for perusal, and
subscribe myself,

Sir,

With much respect,

Your very

Obedient, humble Servant.

J. B.

*Inner Temple Lane,
October, 1831.*

AN EPITOME
OF THE
PRACTICE AND ORIGIN OF THE
SHERIFF'S COURT,

BY

Writ of Justices.

THE County Court is one incident to the jurisdiction of the Sheriff. It is not a Court of Record ; but may hold Pleas of debt or damages above 40s. by virtue of a Special Writ of Justices.

This Writ empowers the Sheriff for the sake of dispatch, to hold Pleas of many real actions, *and of all personal actions TO ANY AMOUNT*, that he may do the same justice in

his County Court as might otherwise be had at Westminster, 3 Blac. Com. But by plaint in Replevin, the County Court may hold Pleas to any amount without a Justicies, 2 Inst. 139, 312. Personal actions are such whereby a man claims a debt or personal duty, or damages in lieu thereof; and likewise whereby a man claims satisfaction in damages for some injury done to his person or property. Of the former nature are all actions upon debt, bill of exchange, note of hand or other promises. Of the latter, all actions for trespass, nuisance, assault, defamatory words, and the like.

By this mode of proceeding, debts above 40s. and damages above that sum for personal wrongs, which may not be considered of sufficient consequence to become the subject of a Trial at the Courts above or at

the assizes, may, at a fourth part of the usual expence, be speedily recovered, particularly during the long vacation of the superior Courts, which often occasions great inconvenience and loss to the Suitors.

The Freeholders of the County are the real Judges of this Court, and the Sheriff the ministerial officer. The great conflux of Freeholders, which are supposed always to attend at the County Court (which Spelman calls, *forum plebiæ Justitiæ et theatrum comitivæ potestatis*) is the reason why all Acts of Parliament at the end of every session were wont to be there published by the Sheriff; why all outlawries of absconding offenders are there proclaimed; and why all popular elections which the Freeholders are to make, as formerly of Sheriffs and Conservators of the peace, and

still of Coroners, Verderors, and Knights of the shire, must ever be made *in pleno comitatu*, or in full County Court.

By the Statute 2, Edward VI. c. 25, no County Court shall be adjourned longer than for one month, consisting of twenty-eight days ; and this was also the ancient usage, as appears from the laws of King Edward the elder. In those times, the County Court was one of great dignity and splendor ; the Bishop and the Eardorman (or Earl) with the principal men of the shire, sitting therein to administer justice, both in lay and ecclesiastical Causes.

COSTS of Proceeding by *Justicies*, as allowed in the Case of *BONUS v. CARTER*, tried at *Hertford*, on the 1st of September last.

	£	s.	d.	
Letter before Action - - - - -	0	3	6	1831. June
Instructions to sue - - - - -	0	3	4	
Attending to bespeak Justicies -	0	3	4	
Paid for same - - - - -	0	10	6	
Attending County Clerks Office filing Writ - - - - -	0	3	4	
Summons and entering plaint -	0	3	0	
Service 3 <i>d.</i> per mile to the Defendant's place of residence - -	0	3	0	

COURT OF JULY 6TH.

Searching for appearance - - - - -	0	1	8
Paid Search - - - - -	0	0	6
Instructions for Declaration - -	0	3	4
Drawing same (6 <i>d.</i> folio) - - -	0	6	0
Fair Copy to file - - - - -	0	4	0

Carried forward - - £

£	s.	d.
---	----	----

Brought forward - -

Close Copy for Defendant's Attorney	0	4	0
Notice Declaration and to plead at the next Court	0	2	6
Service thereof (3d. per mile)	0	2	6
Rule to plead	0	1	6

COUNTY COURT, AUGUST 4TH.

Searching for and demanding plea Defendant having pleaded the General Issue, Drawing Issue, folio 15	0	4	4
Ingrossing two fair Copies thereof, one to file and another to deliver to Defendant's Attorney	0	6	0
Warrant and Docket	0	2	0
Notice of trial Copy and service for the next Court	0	2	6
Service thereof on Defendant (3d. per mile)	0	2	6
Venire facias and fee	0	5	0

Carried forward - - £

£ s. d.

Brought forward -

Paid Return thereto	-	-	-	0	2	6
Subpcena and fee	-	-	-	0	4	0
Three fair Copies	-	-	-	0	3	0
Service thereof (3d. per mile six miles)	-	-	-	0	1	6
Paid conduct money to each Wit- ness 1s.	-	-	-	0	3	0

COUNTY COURT, SEPTEMBER 1ST.

Instructions for Brief	-	-	-	0	6	8
Drawing and fair Copy same, two Brief sheets	-	-	-	0	10	0
Notice to produce and two fair Copies	-	-	-	0	5	0
Attending trial and pleading Cause	-	-	-	0	13	4

*If the Solicitor comes from a dis-
tance in the County, he will be
allowed reasonable travelling
expences.*

Paid Witness for his time and trouble	-	-	-	0	5	0
--	---	---	---	---	---	---

Carried forward - - £

	<i>£ s. d.</i>
<i>Brought forward -</i>	
Paid swearing two Witnesses -	0 2 0
Swearing Jury - - - - -	0 4 0
Under-Sheriff hearing Cause -	0 13 4
Recording Verdict - - - - -	0 1 0
Paid Jury - - - - -	0 12 0
Paid Officer summoning same -	0 8 0
Paid refreshment for Witnesses	0 7 0
Bill Costs and Copy - - - -	0 3 0
Notice of Taxing Copy and service	0 2 6
Rule for Judgment - - - - -	0 1 0
Paid filing - - - - -	0 0 6
Attending to tax - - - - -	0 6 8
Paid County Clerk for his Allo-	
catur - - - - -	0 5 0
Postages and parcels actually out	
of pocket - - - - -	0 11 6
	£

COSTS of a Replevin Damage-feasant.

	<i>£ s. d.</i>
Attending the party applying for a Replevin, taking an account of the cattle impounded and of their Value, and enquiring as to the sufficiency of the persons offered as Sureties - - -	0 6 8
If the County Clerk be not satis- fied as to their sufficiency, the party is entitled to a reasonable Charge for any trouble he may take in assuring him of their responsibility.	
Drawing and engrossing Bond from the Principal and two Sureties (in a penalty equal at least to the Value of the cattle distrainted) as a security to the Sheriff and all parties concerned	0 6 8
Paid for Stamp and Paper - -	0 2 6

Carried forward - - £

£ s. d

Brought forward -

Attending Plaintiff and two Sureties and seeing the Bond properly executed	- - - - -	0	3	4
Replevin, Copy and Fee (including entering Plaintiff and filing Bond and Affidavit of Value)	- - -	0	11	8
Paid postage letter to County Clerk, to enter Plaintiff, and paid Fee to file Replevin Bond	- -	0	11	0
Summons thereon	- - - - -	0	5	0
Paid Bailiff serving Replevin on the person in possession of the Cattle, and Summons on the Defendant (6d. per mile) six miles	- - - - -	0	3	0

£

The pledges taken by the Sheriff, when the distresss is *not for rent*, are according to the Statute of Westm. 2, and may be by Bond, and that too of the Plaintiff himself only, for one is enough if responsible, though the Statute uses the word pledges ; but when the distress *is for rent*, there must be two Sureties by Bond. Gilb. Dist. 68.

If two pledges are taken, and they afterwards become impoverished or die, or be outlawed, &c. the Sheriff will be excused, if they were sufficient at the first, Dalt 434 ; but not if less than two are taken.

COSTS of a Replevin for Rent.

The following charges may be added to the above—

	£ s. d.
Attending an appraiser, and instructing him where to attend and appraise the goods, and afterwards taking down the particulars of his valuation	- - 0 6 8
Drawing and engrossing Affidavit of the value of the goods	- - 0 5 0
Paid Oath	- - - - - 0 1 0
Paid appraiser for his trouble (1s.) in the pound for the first £100, and 6d. in the pound above that sum	- - - - -
	£

N. B. *In Replevin for Rent, a Bond must always be taken from the Principal and two Sureties in double the value of the goods*

ascertained by Affidavit, pursuant to 11 Geo. II. c. 19 s. 23, and if the Inventory, which must be copied in the Bond, be of any length, an additional 4d. per folio may be charged

The Plaintiff should be against the Bailiff who made the distress, and the person from whom he received authority to levy.

A Replevin is served by shewing the original or a true Copy to the person in possession of the property, making a demand thereof, and by leaving such Copy. The Original, with a Certificate indorsed from the Bailiff of having made deliverance, pursuant to the Sheriff's liberatur, together with the Bond and Affidavit, must be filed with the County Clerk, and the plaint entered without delay.

All Replevins must be under the seal of office of the Sheriff, and be issued by the County Clerk or a deputy, duly appointed.

A Replevin Bond.

In Replevin
for rent, the
penalty
must be
double the
value of the
goods dis-
trained; and
for *damage-*
feasant, *equal*
to the full
value at
least.

KNOW ALL MEN by these Presents,
That we, *C. D.* of, &c. [the Principal]
E. F. of, &c. and *G. H.* of, &c. [the
two Sureties] are held and firmly
bound to *J. K.* Esq. Sheriff of the
County of _____
in the sum of £ _____ of law-
ful money of *Great Britain*, to
be paid to the said *J. K.* or his
certain Attorney, Executors, Admi-
nistrators or Assigns, for which pay-
ment to be well and truly made, we
bind ourselves, and each, and every

of us, for the whole, and our and
each of our heirs, Executors and Ad-
ministrators, firmly by these Presents,
Sealed with our Seals, dated
day of in the Year of the
Reign of our Sovereign William IV.
by the Grace of &c., and in the Year
of our Lord One Thousand Eight
Hundred and Thirty-one.

Now the Condition of this obligation is The Condition.
such, That if the above bounden *C. D.* [the
Principal] shall and do appear at the next
County Court, to be holden at the Shire-
Hall, Hertford [or where the Court is held]
in and for the County of Hertford, and then
and there prosecute with effect, and without
delay, his suit which he has commenced
against *W. W.* [the Bailiff] and *J. P.* [the

Landlord] for the taking and unjustly detaining four cows, four heifers [here set out the property distrained] the goods and chattels of him the said *C. D.*, and do duly make return of the said cattle, goods and chattels, in case a return of the same shall be awarded, then this present obligation shall be void, and of none effect, or else it shall remain and be in full force and virtue.

Signed, Sealed and delivered by the above named *C. D. E. F.* and *G. H.* in the presence of

Affidavit of the value of the goods distrained to be made and annexed to the Bond.

JOHN DOE of , &c. maketh oath and saith, that he has seen the cattle, goods and chattels, particularly specified in the Condi-

tion of the Bond hereunto annexed, and that the same are of the value and really worth the sum of £ according to the best of this Deponent's skill, judgment and belief ; and this Deponent further saith, that he is in no wise interested in the said cattle, goods and chattles, or in the distress taken thereon.

JOHN DOE.

Sworn at in the County
of Hertford, the day } R. C.
of , 1831, before }

A Deputy to the Sheriff of Hertford for
granting Replevins.

N. B. The Statute of 11 Geo. II. c. 19,
s. 23, authorises the Deputy to administer
this oath.

Writ of Replevin.

This is only
necessary
when the
Sheriff re-
fuses.

WILLIAM THE FOURTH, To the Sheriff
of , Greeting, We command you that
justly, &c. without delay, you cause to be
replevied to *A. B.* his cattle, goods and
chattels, which *C. D.* took and unjustly
detains as it is said, and afterwards, there-
upon cause him justly to be remedied in
this behalf, that we may no longer hear any
clamour thereupon, for want of justice, &c.
Witness ourself at Westminster, the

day of in the Year of our Reign.

ELLENBOROUGH.

The Plaintiff.

A. B. Complains against *C. D.* in a plea
of taking and unjustly detaining his cattle,
&c, against sureties and pledges.

Pledges to prosecute

John Doe and Richard Roe.

N. B. When this Plaintiff is filed, the cause
may be either tried before the Sheriff or
removed by Writ of Re : fa : lo.

Plaintiff's Costs in Replevin.

	£	s.	d.
Instructions and warrant to sue	0	3	4
Attending the Sheriff's Deputy			
and giving instructions for			
Replevin - - - - -	0	6	8

Carried forward - - £

£ s. d.

Brought forward -

Paid for Replevin, Bond, &c. -	1	1	0
Affidavit of the due value and fair			
Copy - - - - -	0	5	0
Paid Oath - - - - -	0	1	0
Paid for Sheriff's Liberatur - -	0	2	6
Paid for Summons - - - -			

**THE FIRST COURT AFTER THE
REPLEVIN, IF IN JUNE.**

Certificate of service of Summons, and fee on filing - - - - -	0	3	4
Paid service thereof and Bailiff's return of same - - - - -	0	5	0
Attachment and fee (if the De- fendant) does not appear - -	0	5	0
Paid Bailiff distraining 5s. and 3d. per mile to the place of distress 2s. 6d. - - - - -	0	7	6

COUNTY COURT, JULY.

Searching for appearance and paid	0	4	4
<hr/>			

Carried forward - - £

£ s. d.

Brought forward -

Fee on appearance and rule to de-			
clare, given by Defendant - - -	0	3	4
Instructions for Declaration - - -	0	3	4
Drawing same, folio 15, at 6d. - - -	0	7	6
Fair Copy to file - - - - -	0	3	0
Close Copy to deliver - - - - -	0	3	0
Paid filing - - - - -	0	1	0
Rule to avoid at the next Court and fee - - - - -	0	4	0

COUNTY COURT, AUGUST.

Searching for avowry - - - - -	0	3	4
Paid search - - - - -	0	1	0
Paid for Copy avowry - - - - -	0	3	0
Fee on rule to plead, given by Defendant - - - - -	0	2	0
Instructions for plea - - - - -	0	3	4
Drawing same for pleader to pe- ruse—settle folio 10 - - - - -	0	5	0
Attending him - - - - -	0	3	4
Paid his fee - - - - -			

Carried forward - - £

COUNTY COURT, SEPTEMBER.

	£ s. d.
	<i>Brought forward -</i>
Ingrossing plea, folio 5	0 2 6
Paid filing	0 1 0
If default be made ; an Affidavit of Service will be neces- sary to en- title the party to a <i>non pros.</i>	Rule to reply (a four day rule) and fee
	0 4 0
	Copy and service
	0 2 0
	Searching for Replication and paid
	0 4 4
	Paid for same, folio 4
	0 1 4
	Drawing Issue and fair Copy, folio 7
	0 3 6
	Close Copy for Defendant
	0 2 0
	Attending to enter notice of trial (eight clear days) for the next
	Court
	0 3 4
	Paid entry
	0 1 0
	Notice of trial, Copy and service
	0 3 0
	Venire and fee
	0 5 0
	Paid return thereto
	0 2 6
	Subpoena and fee
	0 4 0

Carried forward - - £

£ s. d.

Brought forward - -

Copy Subpoena	- - - - -	0	1	0
Service thereof on one Witness,				
five miles	- - - - -	0	2	6
Paid conduct money	- - - - -	0	1	0
Instructions for Brief	- - - - -	0	6	8
Drawing same and fair Copy	-	2	10	0

COUNTY COURT, OCTOBER.

Attending trial	- - - - -	1	1	0
Paid Counsel or Advocate with				
Brief	- - - - -			
Paid swearing jury	- - - - -	0	4	0
Paid entering verdict	- - - - -	0	2	0
Paid summoning jury	- - - - -	0	8	0
Paid jury	- - - - -	0	12	0
Paid free suitors	- - - - -	0	4	0
Paid swearing three Witnesses	-	0	1	6
Paid Witnesses for their attend-				
ance (5s. per day, and 3d. per				
mile, from their residence and				
back)	- - - - -			

Carried forward - £

£ s. d.

Brought forward --

Paid signing final judgment and fee	- - - - -	0	4	0
Bill costs and Copy	- - - - -	0	4	0
Rule for judgment	- - - - -	0	1	6
Attending taxing	- - - - -	0	6	8
Affidavit of increase	- - - - -	0	5	0
Paid Undersheriff	- - - - -	0	3	0
Lev fac. and fee	- - - - -	0	10	0

	TOTAL -- £			_____

Letters, &c. (according to the circumstances).

If the costs of Brief and Counsel and Witnesses, exceed the above sums, the Bill should be supported by Affidavit, and the different vouchers produced to the County Clerk, who will make a further allowance.

When the pleadings are intricate and settled by a special pleader, the costs will be allowed as between party and party.

Defendant's Costs in Replevin.

	£	s.	d.
Attending taking instructions to distain - - - - -	0	3	4
Drawing Warrant of distress (if under £ 20) - - - - -	0	3	0
Paid Bailiff making distress - -	0	4	6

COUNTY COURT, JUNE.

The Plaintiff having replevied the distress, instructions and War- rant to defend - - - - -	0	3	4
Appearance and fee (including search for Plaintiff and Bond) -	0	5	4
Paid for liberatur and fee, for the goods taken under the Attach- ment - - - - -	0	4	4
Rule to declare at the next Court and fee - - - - -	0	4	0
<hr/>			
<i>Carried forward - - £</i>			

COUNTY COURT, JULY.

	£	s.	d.
<i>Brought forward - -</i>			
Searching for Declaration and paid	0	4	4
Paid for Copy Declaration folio 6,			
at 4d - - - - -	0	2	0
Fee on rule to avow - - - - -	0	2	0
Instructions for avowry - - - - -	0	6	8
Drawing same, folio 9, at 6d. - - - - -	0	4	6
Ingrossing same at 4d. - - - - -	0	3	0
Paid filing - - - - -	0	1	0
Rule to plead and fee - - - - -	0	4	0

COUNTY COURT, AUGUST.

Drawing replication, folio 9, at			
sixpence - - - - -	0	4	6
Fair Copy to file - - - - -	0	3	0
Close Copy to deliver - - - - -	0	3	0
Fee on Issue joined - - - - -	0	3	0

TOTAL - - £

The subsequent Costs of proceeding to trial are similar to the Plaintiff's.

AN EPITOME
OF THE
PRACTICE OF THE SHERIFF,
IN HIS COUNTY COURT.

THE Statute of Edward II. requires the Courts when held. Sheriff to hold his Court every month somewhere within his County, and it cannot be adjourned to a longer period than twenty-eight days.

The general mode of proceeding in the General mode of proceeding. different actions brought in this Court, may be seen on reference to the foregoing table of Costs.

Plaint.

The Plaintiff in the County Court is in the nature of an Original in the Common Pleas, and therefore no more than one Defendant can be included in one Plaintiff, except in the Case of a joint Cause of Action.

Entry.

The Plaintiff must be entered at the County Court on the return of the Summons, as of the Proceeding Court.

Summons.

The Summons must bear date on the Court day preceding the service, and be made returnable at the next Court, and a Copy thereof must be served on Defendant, or left at his place of abode, and the original Summons shewn to the person served, before the return day.

Appearance.

A Defendant has six clear days after the return of the Summons; and if no appearance

be then entered, the Certificate of the Service indorsed must be signed by the person who served it and filed with the County Clerk, who will thereupon direct an Attachment to one of the Sheriff's officers, or to a special Bailiff, to attach or distrain the Defendant's goods. If no appearance be entered for him at the return of the Attachment, a Distringas may then be issued to make a further distress, provided the Attachment be duly filed at the Court with a return indorsed thereon, specifying the goods attached, and so in default of appearance at the return of the Distringas (the same being duly returned and filed); further process may issue against the Defendant from Court to Court until he appear.

The Defendant upon entering an Appearance, may have his goods restored, by

applying to the County Clerk, for a Liberatur to the Bailiff to return them.

Assignment
of Replevin
Bond.

No Replevin Bond can be assigned until the expiration of four clear days after the time limited therein, for the Plaintiff to prosecute his suit.

General
rules.

Before Issue is joined, or interlocutory judgment signed, either party may give a rule for the other to proceed at the next Court, and in default of proceeding, interlocutory judgment, or judgment of non pros (as the case may be) may be signed; but until such a rule has been given and expired, no advantage can be taken of any delay. In case the party called on to proceed wishes to gain time, he may at his own costs, upon notice of motion and upon shewing good cause, obtain such further

time as may be necessary. Notice however of any opposition should be given and served on the opposite party, six clear days before the sitting of the Court; and if no good opposition should be then offered, the continuance may be taken as a matter of course.

If a Plaintiff delay signing interlocutory Pleading, judgment, and the Defendant plead at any time before it is signed, the plea must be accepted although the rule to plead be expired.

If a Defendant file his Plea at the County Clerk's Office, and give notice thereof to the Plaintiff's Attorney on or before the Saturday preceeding the next Court, after interlocutory judgment signed, (and no delay having arisen) supported by an *Affidavit of merits*, and pay the Plaintiff's costs of Reversing Interlocutory judgment.

signing judgment, such judgment on motion at such Court and no good course shewn against it may be reversed, and the Plea accepted.

Assessing
damages on
Judgment
by default.

In Pleas under 40s. the Court assess the damages, with the assistance of two assessors duly sworn; and in Pleas above 40s. with the assistance of a jury, and final judgment may be entered, and execution issue at the same Court at which the damages are assessed; but in cases where judgment is found after issue joined, final judgment cannot be signed without giving a four-day rule.

Notice of
Trial.

Eight days notice of trial is necessary, and the same must be entered with the County Clerk; and a Countermand must be served on the Defendant's Attorney or left at his house, and also filed with the County

Clerk three days before the day of trial. If it be sent in a letter by the post, it will be deemed good service on the day of its arrival.

If the Plaintiff do not proceed to trial Neglecting to go to trial, pursuant to notice or countermand in due time, the Defendant can claim the costs of the day.

If the Plaintiff do not try his Cause within Trial by two Courts after issue joined, the Defendant proviso. is entitled to try by proviso, on obtaining a rule for that purpose, and entering notice of trial in the usual manner ; and if the Defendant do not afterwards proceed to trial or countermand in due time, he will be liable to pay the Plaintiff his costs of the day. If the Plaintiff do not attend, the Defendant may have judgment of nonsuit against him.

Trial in
Replevin.

As both parties are actors in Replevin, either of them may go to trial immediately after issue joined.

Putting off
trial.

The Court can put off a trial on good cause being shewn, supported by an Affidavit, sworn before a Commissioner, and payment of costs. The earliest notice possible of the intended application and of the grounds thereof should be given to the opposite party, to prevent him from attending with his witnesses.

New trial.

The Court cannot grant a new trial, but may set aside a judgment for matters of irregularity where proceedings are contrary to the rules and practice of the Court.

Sitting aside
judgment.

The only Writ of execution that can be issued out of this Court, is a levavi facias

against the goods of the Defendant found within the County ; but by bringing an action in one of the superior Courts upon the judgment, execution may be obtained against his body or goods as in other cases.

If the Plaintiff, before he has obtained interlocutory or final judgment, neglect to proceed during six successive Courts, the Cause will be deemed to be out of Court, unless continued therein by a Special Order; but after appearance, the Defendant may sooner determine the suit by obtaining a judgment of non pros against the Plaintiff, in case he does not proceed at the expiration of a rule given for that purpose.

The Defendant must reside and the cause of action arise within the County ; for where these circumstances do not concur the

action must be brought in a superior Court,
I. J. R. 175.

How to proceed if the original Plaintiff will not go to the expence of a debt was above 40s. If the debt be within or near 40s. and the Justicies, and the Plaintiff will acknowledge in his Declaration any sum to bring it under 40s., the Plaintiff will be good; but he cannot split a debt into parts and bring several actions; for if he do, the Defendant may plead the same to the jurisdiction of the Court.—Gr. 4.

Attornies. The Attornies for the parties are supposed to attend at every Court, by themselves or their Agents, and search for and take notice of all rules and proceedings.

Writ of False Judgment. A Writ of false judgment may be sued by any one against whom judgment is given, his Heir, Executor, or Administrator, or by

any one who has damages, though the other Defendants do not join as they ought to do in error.—R. mode 854.

This Writ is in the nature of a *recordari*; and upon the return of it, and the whole record certified and not before, the Plaintiff shall assign his errors, and the party suing it may have a *scire facias ad audiendum errores*.

THE END.

